

**Electronically Filed
Supreme Court
SCPW-12-0000833
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NO. SCPW-12-0000833

IN THE SUPREME COURT OF THE STATE OF HAWAII

MICHAEL C. TIERNEY, Petitioner,

vs.

THE HONORABLE RICHARD K. PERKINS, JUDGE OF THE CIRCUIT
COURT OF THE FIRST CIRCUIT, STATE OF HAWAII, Respondent.

ORIGINAL PROCEEDING
(S.P.P. NO. 12-1-0011)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

(By: Recktenwald, C.J., Nakayama, Acoba, McKenna, and Pollack, JJ.)

On October 2, 2012, this court filed a document entitled "Petition for Writ of Mandamus," which was submitted by petitioner Michael C. Tierney. Petitioner seeks an order from this court directing the Honorable Richard K. Perkins to conduct an evidentiary hearing and appoint counsel for him in S.P.P. No. 12-1-0011. Based upon our review of the petition for a writ of mandamus, the document attached thereto and submitted in support thereof, and the record, it appears that at this time, petitioner fails to demonstrate that he has a clear and indisputable right to relief and lacks alternative means to obtain the requested

relief. Therefore, although more than ninety (90) days have passed since the State of Hawai'i filed its answer to the Rule 40 petition and petitioner filed his motion for the appointment of counsel, and although petitioner is entitled to a ruling thereon, he is not entitled to the mandamus relief requested. See Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334, 338 (1999) (A writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of alternative means to redress adequately the alleged wrong or obtain the requested action). Accordingly,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, October 24, 2012.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

